

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

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GAYLE ROSE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 07-2404-JPM/tmp
	)	
MATRIX INITIATIVES, INC. and	)	
ZICAM, LLC,	)	
	)	
Defendants.	)	

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ORDER ADOPTING REPORT AND RECOMMENDATION

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Pending before the Court is the Report and Recommendation of Magistrate Judge Tu M. Pham, submitted November 9, 2008 (D.E. 60), recommending that Defendants' Motion to Exclude the Expert Report and Testimony of Terence M. Davidson, M.D. (D.E. 31) be granted.

In determining that such action is appropriate, the Magistrate Judge found that Davidson's testimony that Zicam caused Plaintiff's anosmia was unreliable because (1) the studies upon which Davidson relied do not support the argument that Zicam can reach the olfactory epithelium when used as directed and (2) Davidson could not offer any scientific support for his belief that Zicam is capable of reaching the olfactory epithelium. The Magistrate Judge therefore found Davidson's testimony to be unreliable and unhelpful to Plaintiff's burden

of proving both general and specific causation. Accordingly, the Magistrate Judge recommended excluding Davidson's testimony.

No objections to the Report and Recommendation have been filed, and the time for filing objections has since expired. Upon de novo review of the Magistrate Judge's Report and Recommendation, the Court ADOPTS the Magistrate Judge's Report and Recommendation in its entirety and EXCLUDES the testimony of Terence M. Davidson, M.D.

So ORDERED this 31st day of March, 2008.

s/ JON PHIPPS McCALLA  
UNITED STATES DISTRICT JUDGE